UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,936	07/31/2003	Michael James McDermott	ROC920030138US1	9680

30206	7590	08/15/2006

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EXAMINER
NGUYEN, THUONG

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>09 August 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

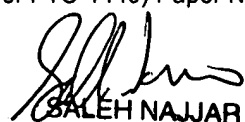   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>None</u>.

   Claim(s) objected to: <u>None</u>.

   Claim(s) rejected: <u>1-30</u>.

   Claim(s) withdrawn from consideration: <u>None</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

_____

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☒ Other: <u>See Continuation Sheet</u>.

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER

Continuation of 13. Other: Response to Arguments:
Applicant argued that Carlson does not teach or suggest the node is associated with a site containing the data storage device and verification that the at least one data storage device is located at the same site. In resonse to Applicant's argument, the Patent Office maintains the rejection because Carlson does teach the node is associated with a site containing the data storage device and verification that the at least one data storage device is located at the same site (page 7, paragraph 74; page 5, paragraph 55; Carlson discloses the method of identifying the resources in each paths in the system, which the same as identified if the data storage device is at the same site. Furthermore, Carlson also discloses that the method of keeping track of which resources are available and allocating the location of the resources)
Applicant argued that there is no electrical connectivity between the two devices such as site. In response to Applicant's argument, the Patent Office maintains the rejection because Carlson does teach the connectivity between the two devices (figure 1 and figure 4; page 7, paragraph 70; page 3, paragraph 44; page 5, paragraph 55; Carlson discloses that the method of identified the allocation of the resources in the group (pooled), which provides the connectivity of the topology database within the system, which treated as the site, location of the devices);
Applicant argued that Carlson failed to teach the limitaion of determining that the node is associated with a site containing the data storage resouce pool. In response to Applican't argument, the Patent Office maintains the rejection because Carlson does teach the determining that the node is associated with a site containing the data storage resource pool (page 3, paragraph 45; page 6, paragraph 67; Carslon discloses that the method of allowing the juser to access, locate the storage resources within the network and allocate the available path, which determined the node, location, site of the resources).
Applicant argued that Mayer does not teach a "primary node" and "at least one backup node" within a "cluster resource group". In response to Applicant's argument, the Patent Office maintains the rejection because Examiner only cited Mayer to disclose the method of using OS/400 operating system to execute the system. The primary node and backup node would be taught in Carlson (page 13, paragraph 126 & 127; Carlson discloses that the method of determined the available resource and storage pool and operates the applications correspondly).
Applicant's argued that Mayer does not teach or suggest the claimed element specifying that the data storage resource pool is defined as an independent auxiliary storage pool. In response to Applican'ts argument, the Patent Office maintains the rejection because Exmainer only cited Mayer to disclose the method of using OS/400 operating system to execute the system. The data storage resource pool would be disclose in Carlson (page 13, paragraph 126 & 127; Carlson discloses that method of determined the availability of the resources in the storage pool).